

The Curious and Alarming Story of the City of Göd

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In Hungary, municipalities own private property. In particular, they own valuable plot of lands where they often create industrial parks. In these industrial parks numerous small and big company run businesses. And they pay local industry tax to the municipality. These revenues evidently form a relevant part of the municipalities' yearly income. The municipalities' property is protected – at least theoretically – by the Basic Law of Hungary, which generally protects the right to property (Article XIII) and specifically enshrines the municipalities' right to “exercise the ownership rights over municipal property” (point e) of Article 32).

However, now the Hungarian Government has confiscated out of the blue an industrial park in the city of Göd, whose mayor is a member of an opposition party, and, consequently, taken away from it the right to collect the local industry tax. The Hungarian Government made this step by misusing its extraordinary law-making powers which were conferred by the controversial Enabling Act during the epidemic state of danger. This measure, as I will show, constituted an abuse of legislative power, since it served no real epidemic or economic purpose. The Government's real intention was to take revenge for the loss it suffered during the municipal elections in October 2019 and weaken financially the opposition.

What happened?

[Göd](#) is a small town in Pest County, situated some 25 kilometres north from the Hungarian capital Budapest. Unsurprisingly, the city has never reached the national news, the life there was usually calm and quiet.

However, this situation has radically changed on 17 April 2020, when the Hungarian Government enacted its decree no [135/2020](#). This decree – which was officially issued under the pretext of the fight against the COVID-19 pandemics – created the possibility of forming so called “special economic areas” within the territories of municipalities. The ownership of the real-estates within the special economic areas is transferred to the county level from the local municipalities. What is more, from now on in the territory of these special economic areas the right to collect taxes is also transferred to the county.

On 17 April 2020 (the same day of issuing the above mentioned decree 135/2020), the Government issued decree [136/2020](#), which created a special economic area in the town of Göd. The decree in effect took away 1/5 of the territory of the city and gave it to the Pest County Regional Municipality. This legal step meant a change of ownership of the real-estates in question in a classical private law sense. The law came into force the next day – i.e. almost with immediate effect, leaving no time to

prepare for its consequences. The city did not receive any compensation for the expropriation.

As a direct result of the decrees, Göd lost approximately 1/3 of its yearly tax revenue. This loss occurred because the expropriated land includes a big [Samsung factory](#) paying high amounts of local industry tax – which now fills the coffers not of the city of Göd, but of the Pest County Regional Municipality. To add insult to injury, the tax already paid before the entry into force of the decrees shall be returned and transferred to the County Regional Municipality. These measures altogether impose a very heavy burden on the municipality, especially during the present pandemic crisis.

Why is this important from a constitutional point of view? The answer is simple: they constitute one of the most blatant misuses of extraordinary power vested on the Hungarian Government in the context of the fight against the pandemic.

At the outset, it shall be noted that the deprivation of property of the town of Göd has nothing to do with the epidemiological situation in Hungary, nor the alleviation of its economic consequences. On paper, the decrees serve the purpose of saving jobs and creating new ones. However, there are no data available that the Samsung factory needed to fire people or would otherwise have been affected by the crisis. The decrees cannot be justified by any real economic steps, they simply change the ownership structure of valuable real estate and transfer the related taxation rights. The decrees do not define the “special economic areas”, nor do they establish their exact nature or purpose. They are just a *carte blanche* which serve only as a cover for depriving municipalities of their property. In the actual case the fake nature of the measures is crystal-clear, since Samsung does not even have to pay a forint less tax in the future; it just pays taxes to the County instead of the town of Göd. Had the decrees real purpose been to “save” Samsung (which, I repeat, was apparently in no need of help whatsoever), the minimum action would have been some kind of financial rescue plan tailored to Samsung’s needs. However, the decrees not even remotely contain any such steps.

The Hungarian Government punishes the opposition

If there were no pandemic or economic reasons behind the enactment of the decrees, then what was the real intention of the Hungarian Government? At this juncture, I shall underline the fact that in October 2019 municipal elections were held in Hungary, where the first cracks on the Orbán-administration occurred: in numerous towns – including the city of Göd – the opposition won. However, in the county municipalities FIDESZ still has an overwhelming majority.

Most likely, the main purpose of this was to punish the town of Göd, for the fact that it is opposition-led, its mayor belongs to the opposition party Momentum. Göd was the only town so far where such a measure was introduced by the Government. No similar steps were taken in Debrecen, despite the fact that the building of a new BMW factory was postponed for a year – definitely an event raising the possibility of losing jobs, which would justify state intervention. Kecskemét (Mercedes) and

Gy#r (Audi) were also left undisturbed despite their reported – hopefully temporary – difficulties. Debrecen, Gy#r and Kecskemét have one common feature: their leadership belongs to the ruling party FIDESZ.

In sum: the Hungarian Government is abusing its extraordinary law-making powers during the epidemic state of danger and implemented a measure which serves no real epidemic or economic purpose. If this conclusion is correct, then the Hungarian Government's action is a gross misuse of power completely at odds with the notion of the rule of law, and in particular, Article 17 of the European Convention of Human Rights.

Final (?) chapter: the Government plans to turn the above story into a general practice

The town [attacked](#) the decrees before the Constitutional Court on 12 May 2020. We do not know when and how the Constitutional Court will decide on the complaint. One complaint related to another piece of “pandemic” legislation [received priority](#) before the Constitutional Court, so there is a fair chance that the verdict will be reached within a reasonable time. Let's assume that the Constitutional Court, which in politically sensitive cases has never opposed the FIDESZ administration, this time will make its stand and quash the Government decrees. It would be a great victory – however, not a perfect one since it would not give back to the town the properties lost. The Constitutional Court's decision simply does not have this effect. Therefore, even after a successful constitutional complaint further legal and economic/political actions are needed to finally remedy the injustice suffered.

Final twist in the story: at dawn of 13 May 2020 the Government submitted a [bill](#) with the parliament (nowadays important drafts are frequently tabled early in the morning; who knows why.) The proposed bill almost copy-pastes the version of the Government decrees – but now its scope is extended to the whole country (in fact it cements the similar rules of the Decree no 135/2020.) The bill allows the Government to create special economic areas with all the above described consequences even after the pandemics. It has to consult with the municipalities concerned but even if the municipalities object the plan, the Government has the final word. As the story of city of Göd shows, there is a fair chance that the Government will use this legal tool against the opposition-led municipalities in a discriminatory manner. In case the bill gets enacted (which will surely happen since the ruling party has the 2/3 majority required in the Parliament) then the Government gets green light, and the impoverishment of all the opposition-led municipalities will be a real and direct threat.

